

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

TATIA HARDY,

Plaintiff,

Case No. 15-11896

v.

Hon. John Corbett O'Meara

GREEN TREE SERVICING, LLC,

Defendant.

**ORDER GRANTING DEFENDANT'S
MOTION TO DISMISS AND DENYING
PLAINTIFF'S MOTION TO AMEND COMPLAINT**

Before the court are Defendant's motion to dismiss, filed June 2, 2015, and Plaintiff's motion to amend the complaint, filed August 7, 2015. Plaintiff has not filed a response to Defendant's motion to dismiss; Defendant opposes Plaintiff's motion to amend.

This is a wrongful foreclosure case. Defendant seeks dismissal because, among other well-supported reasons, Plaintiff's claims are barred by judicial estoppel and because the redemption period has expired. Plaintiff has failed to respond to Defendant's motion. The court agrees that Plaintiff's claims are barred by judicial estoppel: she failed to disclose these claims during her 2014 Chapter 7 bankruptcy proceeding. See White v. Wyndham Vacation Ownership, 617 F.3d

472, 478 (6th Cir. 2010); Lewis v. Weyerhaeuser Co., 141 Fed. Appx. 420, 424-25 (6th Cir 2005). In addition, Plaintiff's property rights have been extinguished as a result of the expiration of the redemption period. See Conlin v. Mortgage Elec. Reg. Sys., Inc., 714 F.3d 355, 359-60 (6th Cir. 2013).

Plaintiff's motion to amend, which seeks to add the Federal National Mortgage Association as a party, does not cure these or the other fatal flaws in her complaint, which are detailed in Defendant's motion. As a result, Plaintiff's motion to amend is futile.

IT IS HEREBY ORDERED that Defendant's motion to dismiss is GRANTED and Plaintiff's motion to amend is DENIED.

s/John Corbett O'Meara
United States District Judge

Date: September 29, 2015

I hereby certify that a copy of the foregoing document was served upon counsel of record on this date, September 29, 2015, using the ECF system.

s/William Barkholz
Case Manager